

CONNECTICUT CREDITOR BAR ASSOCIATION, INC.

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TESTIMONY OF ADAM J. OLSHAN IN OPPOSITION TO HB: 6372 – AN ACT EXEMPTING FROM EXECUTION CERTAIN FUNDS IN A JUDGMENT DEBTOR'S ACCOUNT

My name is Adam Olshan, I reside in Glastonbury and I am a member of the Connecticut Creditor Bar Association, Inc, a local professional association comprised of twenty-five law firms that practice creditor rights law in Connecticut. I have been practicing law for 30 years and I have much experience in both Superior and Small Claims Courts in Connecticut.

I stand in opposition to Raised HB Bill No. 6372. **The bill seeks to create a new automatic statutory exemption that will shield up to another \$1000.00 from legitimate judgment debt collection. In addition, the bill will expand the existing \$1000.00 exemption for deposited wages to an unclear amount to be determined by the banks through examination of the judgment debtor's last 60 days of wage deposits.** Consumer protection is vital but existing exemptions reasonably protect Connecticut's judgment debtors and *this bill will unduly burden legitimate judgment debt collection.*

Presently, Connecticut exemption law protects: 1) readily identifiable social security and like government direct deposits (automatic exemption), 2) the lesser of \$1000 or the account balance where the judgment debtor has had direct deposit wages looking back 60 days (automatic) and 3) a \$1000 "wild card" exemption where a judgment debtor elects to claim this exemption. This is a very fair exemption structure.

HB 6372 seeks to increase #2 above from \$1000 to a vague and potentially very high amount of money. Additionally, HB 6372 seeks to increase #3 from an elective exemption to an automatic exemption. At a time where the Connecticut economy is so fragile – we cannot afford to unduly burden legitimate judgment debt collection with such over broad new automatic bank attachment exemptions.

HB 6372's new exemption scheme will significantly reduce the number of bank attachment applications filed. The CT Creditor Bar Association polled its membership with 8 firms reporting that in 2019 (in 2020 there were few bank attachments due to the public health emergency) they applied for 3815 bank executions. These bank attachments successfully led to judgment collections on 26.7% of the attachments with an average sized bank attachment of \$907.32. With a new automatic \$1000 exemption, and the average attachment less than \$1000, the committee can draw the obvious conclusion on the unintended consequence of far less bank execution filings.

With a significant percentage of bank execution revenue going to the Connecticut Bar Foundation (in addition to supporting various judicial department expenses), the loss of revenue should be explored by an economic impact assessment before the legislature upends the existing careful balancing of post-judgment enforcement rights of judgment creditors and judgment debtors.

Automatic exemptions of any size will deprive the judgment creditor of an opportunity to examine the defaulted judgment debtor so that a fair resolution may be reached for both parties. Based on the average dollars collected pursuant to bank executions, this new law would in fact end the bank execution as an affordable Connecticut post-judgment remedy and it would therefore have the unintended practical consequence of eliminating debts for those who do not otherwise pay them to judgment creditors.

Where a judgment debtor has exemption need in excess of the existing automatic and election exemptions, instead of creating brand new law that would upend the present exemption law balancing - the Connecticut Creditor Bar Association proposes that the Judicial Department be required to set down expedited hearings

within two calendar weeks when a hardship exemption hearing is sought by a judgment debtor. This would meet the urgent needs of judgments debtors while also preserving the legitimate needs of judgment creditors to examine the judgment's debtor's situation and actual ability to pay.

Conclusion

If enacted as is, the current bill will upend the "balance" that the legislature has crafted previously and it would result in far less judgment creditors using the bank execution remedy (\$105 cost). This would upend the existing balancing of rights. A better way to achieve the same consumer protection goals is to require that elective exemption requests get expedited hearings.

Thank you very much for the opportunity to address the committee. I request that the Banking Committee NOT report HB 6372 to the General Assembly.

Very truly yours,

Adam J. Olshan, Esq.

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Connecticut Creditor Bar Association, Inc., immediate past president